IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Cooke et al.
Serial No.	:	09/929,569
Filed	:	August 14, 2001
Title	:	Method of Preparing a Food Product
Examiner	:	Keith Hendricks
Group Art Unit	:	1761

DECLARATION UNDER 37 C.F.R. § 1.132

I, JAN-WILLEM SANDERS, declare and say as follows:-

1. I am a Food Fermentation Scientist working for Unilever Research & Development Vlaardingen, Foods Research Centre, Microbiology Department, Vlaardingen, The Netherlands. A copy of my Curriculum Vitae including a list of my publications, is attached hereto and marked "Annexure A".

2. I am an inventor and applicant of patent application serial No. 09/929,569 (hereinafter referred to as "the present application").

3. I have read and I am familiar with the present application.

4. I have also read US Patent No. 6,004,800 (Aebischer et al.) which relates to dextran-producing Leuconostoc bacterial strains. I am advised that the Examiner has referred to column 3 lines 40-42 of Aebischer et al. and stated that:

'Aebischer et al. disclose a process for producing dextran by culturing a strain of Leuconostoc mesenterroides ssp. Cremoris in MSK medium (skimmed cow's milk) supplemented with at least 2% sucrose. "The medium can be allowed to ferment at 25-35°C for 10-20 h. with the pH being maintained at 6-7.3, for example (col. 3 ln. 40-42)." The reference does not provide the means by which the pH is maintained.'

5. Although the Examiner is correct in saying that the method of maintaining the pH is not specifically described in Aebischer et al., it would have been standard practice in 1997/1998 when carrying out the type of fermentations described in Aebischer et al. to control the pH using an electronic pH controller that directs the dosing of base (like NaOH, KOH or ammonia). This was, and is, a standard operation, and pH-controlled fermentations are used as they often result in a higher biomass and product yield. In the case of Aebischer et al., it is likely that a higher dextran sucrase level is obtained by using pH control.

6. My understanding of column 3 lines 40-42 of Aebischer et al. is that the pH of the medium is regulated during the fermentation process to maintain the pH within the desired pH range, for example pH 6-7.3. This is not the case for the method described in the present application where the pH is unregulated during the fermentation process.

7. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardise the validity of this application or any patent issuing thereon.

DECLARED at Vlaardingen, The Netherlands this 4th day of March 2005

JAN-WILLEM SANDERS

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This is Annexure A referred to in my Declaration of this 4th day of March 2005

JAN-WILLEM SANDERS

Curriculum Vitae

Name: Jan-Willem Sanders

Date of Birth: 4 May 1968

Current position: Scientist food fermentation
Unilever Research & Development Vlaardingen, Foods Research Centre, dpt Microbiology
Olivier van Noortlaan 120 3133 AT Vlaardingen

Education:

1986-1992 Masters biology, specialisation biotechnology, Rijks universiteit Groningen, The Netherlands

1992-1997 PhD student in department of molecular genetics, Rijks universiteit Groningen, The Netherlands

1997 PhD thesis: Environmental stress response in *Lactococcus lactis*

Positions:

1997-1998 Post-doc, Rijks universiteit Groningen, The Netherlands. Work on specific antimicrobials to prevent food spoilage

1998-now Scientist, Unilever Research & Development Vlaardingen
Work on application of lactic acid bacteria in food products. Improvement of flavour, texture, stability or health benefits of foods. Working for various categories, now mainly on yoghurt. Secretary of the organising committee of the Seventh (2002) and Eighth (2005) Symposium on Lactic Acid Bacteria

Publications:

Stress-response in *Lactococcus lactis* - cloning, expression analysis, and mutation of the Lactococcal superoxide-dismutase gene
Sanders JW, Leenhouts KJ, Haandrikman AJ, Venema G, Kok J
JOURNAL OF BACTERIOLOGY 177 (18): 5254-5260 SEP 1995

A chloride-inducible gene expression cassette and its use in induced lysis of *Lactococcus lactis*
Sanders JW, Venema G, Kok J
APPLIED AND ENVIRONMENTAL MICROBIOLOGY 63 (12): 4877-4882 DEC 1997

A chloride-inducible acid resistance mechanism in *Lactococcus lactis* and its regulation
Sanders JW, Leenhouts K, Burghoorn J, Brands JR, Venema G, Kok J
MOLECULAR MICROBIOLOGY 27 (2): 299-310 JAN 1998

The S-layer gene of *Lactobacillus helveticus* CNRZ 892: cloning, sequence and heterologous expression
Callegari ML, Riboli B, Sanders JW, Cocconcelli PS, Kok J, Venema G, Morelli L
MICROBIOLOGY-UK 144: 719-726 Part 3 MAR 1998

Identification of a sodium chloride-regulated promoter in *Lactococcus lactis* by single-copy chromosomal fusion with a reporter gene
Sanders JW, Venema G, Kok J, Leenhouts K
MOLECULAR AND GENERAL GENETICS 257 (6): 681-685 APR 1998

Clustered organization and transcriptional analysis of a family of five csp genes of *Lactococcus lactis* MG1363
Wouters JA, Sanders JW, Kok J, de Vos WM, Kuipers OP, Abee T
MICROBIOLOGY-UK 144: 2885-2893 Part 10 OCT 1998

Environmental stress responses in *Lactococcus lactis*
Sanders JW, Venema G, Kok J
FEMS MICROBIOLOGY REVIEWS 23 (4): 483-501 JUL 1999

Heterologous coproduction of enterocin A and pediocin PA-1 by *Lactococcus lactis*: Detection by specific peptide-directed antibodies
Martinez JM, Kok J, Sanders JW, Hernandez PE
APPLIED AND ENVIRONMENTAL MICROBIOLOGY 66 (8): 3543-3549 AUG 2000